

Northern Ireland Sustainable Energy Programme

Call for Schemes **April 2011 – March 2012**

The bidding round for funds from the Northern Ireland Sustainable Energy Programme (NISEP) has now commenced for the programme year 2011-12. All licensed energy suppliers in Northern Ireland, who sign the attached Accedence Agreement, are eligible to bid for funds as well as other organisations that have met the required criteria and registered with the Programme Administrator, the Energy Saving Trust (EST), to become Primary Bidders. The funding is available for energy efficiency and/or renewable energy schemes that must be implemented in the 2011-12 financial year.

All Primary Bidders intending to bid for funding for the coming year must sign and return the attached Accedence Agreement to EST by 1 October 2010.

The attached Framework Document, published in August 2010, provides the rules and procedures for organisations wishing to participate in the 2011-12 NISEP. This document has been revised since the previous version published in September 2009 and incorporates the changes necessary for the second phase of opening up the NISEP to competition from organisations other than licensed energy suppliers. The Framework Document contains detailed information relating to the operation of the NISEP and also the process for submitting scheme proposals. The document can be found in the 'Publications' section of the Utility Regulator's website www.uregni.gov.uk.

Any organisations that are interested in submitting schemes but have not yet registered to become a Primary Bidder should contact the Programme Administrator, the Energy Saving Trust (EST), as soon as possible. The criteria that must be met in order for an organisation to be allowed to register are set out in section 1.4 of the Framework Document.

The total NISEP funding available for 2011-12 is £7,479,775. 80% of the total funding targets priority domestic properties, i.e. vulnerable households

deemed to be in, or at risk of, fuel poverty. The remaining 20% of the funding can be used for schemes aimed at non-priority customers, including both domestic and non-domestic customers. Within these two main categories, there are further ring-fenced divisions of the funding which are detailed in section 1.6 of the Framework Document.

The minimum bid for individual schemes will be £50,000. In the case of no previous NISEP experience, first year funding will be limited to a maximum of £500,000 per organisation or, for non-licence holders, an amount equivalent to the value of any previous single energy scheme they have delivered if it is less than £500,000. This limit will be extended as the organisation develops a successful track record in the delivery of NISEP schemes.

Submissions for scheme funding should be sent to EST which, as Programme Administrator, evaluates schemes on the Utility Regulator's behalf. Contact details for EST are given below. Please request, from EST, a copy of the most up-to-date version of the Scheme Submission template. **The deadline for the submission of schemes is 30 November 2010.** EST will give advice and guidance to Primary Bidders up until this date but schemes must be in their final and complete format by the deadline. Any bids received after 30 November may not be considered for funding and any submissions that are incomplete or of insufficient quality may also be rejected. Please note that it is the responsibility of applicants to ensure that the information provided within their schemes submissions is accurate and fully compliant with the Framework Document.

EST will evaluate the proposals for schemes and make recommendations to the Utility Regulator for approval. Funding will be awarded to the approved schemes that are shown to be the most cost-effective, within the ring-fenced categories, in terms of energy saved compared to expenditure.

The Utility Regulator will hope to formally notify applicants by 28 February 2011 whether or not their submissions have been successful in obtaining funding but please note that delays to the approvals process may occur if the Programme Administrator is required to seek clarification and/or further information on points within the scheme submissions.

Bids for funding should be made to:

*NISEP Programme Administrator
Energy Saving Trust (NI)
Enterprise House
55-59 Adelaide Street
Belfast*

BT2 8FE

Tel: 028 9072 6005

Fax: 028 9023 9907

e-mail : nisep@est.org.uk



NISEP ACCEDEANCE AGREEMENT

(Must be signed by all Primary Bidders and returned to the Programme Administrator)

Name and address of organisation:

Name and contact details of NISEP contact within organisation:

Email:

Phone:

We hereby agree:

- a) to ensure that all information provided within scheme applications will be accurate and within the rules set out in the NISEP Framework Document.
- b) to comply with the terms of the NISEP Framework Document (including, without limitation, the terms and conditions appended hereto).
- c) to deliver the schemes approved under the NISEP Framework Document in accordance with the NISEP Framework Document and in accordance with the scheme application or allowed scheme variation process.
- d) to provide the Programme Administrator with all reasonably requested information in relation to the delivery of approved schemes to include, without limitation, information relating to:

- a. Costs
 - b. Financial controls including tendering processes.
 - c. Energy saved
 - d. Measures installed
 - e. Geographical Spread of measures installed
 - f. Customer Satisfaction/Customer Complaints
 - g. Quality Control
 - h. Health and Safety and Risk Assessment
 - i. The role of Scheme Partners
- e) To return to the NISEP any funding received from NISEP which is unspent or misspent or deemed ineligible.

Signature

Print name

Role in Organisation

GENERAL CONDITIONS

The Primary Bidder covenants with the Programme Administrator and the Utility Regulator that it shall:

The Project

- 1.1 use best endeavours to implement and complete the Scheme as per the approved scheme submission or any subsequent scheme variation;

Accountancy System

- 1.2 at all times accurately maintain all books, accounts and records required by law (whether in the United Kingdom or otherwise) to be maintained by it;

Financial and other information

- 1.3 provide the Programme Administrator with:
 - 1.3.1 written progress reports of the Scheme as and when requested by the Programme Administrator, such reports to be satisfactory to the Programme Administrator;
 - 1.3.2 technical progress reports on the Scheme as and when requested by the Programme Administrator, such reports to be satisfactory to the Programme Administrator; and
 - 1.3.3 such other information as may be required by the Utility Regulator or Programme Administrator in respect of the scheme;

Change in Scheme

- 1.4 obtain the Utility Regulator's consent in writing to any proposed change in the Scheme in accordance with the provisions of Appendix 4, any consent required not to be unreasonably withheld or delayed;

Inspection

- 1.5 permit the Programme Administrator from time to time to enter the business premises and any other premises of the Primary Bidder during normal working hours (unless a statutory or regulatory obligation requires entry outside of these hours) to inspect any asset and any accounting or other record in respect of any funding which has been paid or may become payable in connection with the Scheme and to review and, if applicable, copy same. Such inspection, for the avoidance of doubt, to be limited to the purpose described in this paragraph 1.5;

Assignment

- 1.6 not without the prior written consent of the Utility Regulator, assign or in any way encumber any right to receive funding or other benefit or entitlement in connection with the Scheme;

No term of this agreement shall be enforceable by a third party (being any person other than the parties hereto) under the Contracts (Rights of Third Parties) Act 1999;

Insurance

- 1.7 at its own expense insure with a reputable firm of insurers, all its property, assets and effects of an insurable nature, including (without limitation) its buildings, plant, machinery and equipment against all and any loss, damage, risk, contingency or public liability as may from time to time be requested by the Utility Regulator (or, if no such request is made, against such loss, damage, risk, contingency or public liability as a prudent company or firm in the same business as the Primary Bidder would insure against) to the full replacement value thereof and shall produce the policy or policies of insurance together with proof of payment of the necessary premiums to the Programme Administrator on request;

Participation

- 1.8 ensure that no other person or company (other than the scheme partners or intended beneficiaries who have been notified to either the Programme Administrator and/or the Utility Regulator via the scheme submission or subsequent scheme variation) shall participate in the financial assistance under this agreement and that no commission, profit sharing or other arrangements under which any other person or company shall benefit from funding made pursuant to this Agreement shall be permitted, except with the prior written consent of the Utility Regulator;

Forecasts

- 1.9 provide an explanation to the satisfaction of the Utility Regulator if actual claimed expenditure on a Scheme varies significantly from the previously submitted forecasts in accordance with the terms of the Framework Document.

Legislation

- 1.10 ensure that Schemes are implemented in a manner that is compliant with overarching legislation such as the Human Rights Act, the Data Protection Act and the Freedom of Information Act.

Responsibility

- 1.11 the Utility Regulator accepts no responsibility, financial or otherwise, for expenditure or liability arising out of the Scheme, including that arising as a result of the purchase of equipment and/or consumable items;

DISCLOSURE, PUBLICITY, CONFIDENTIALITY

- 2.1 The Utility Regulator shall be entitled to publish details of the amounts and types of funding made available to the Scheme at such times and in such manner as the Utility Regulator may decide.
- 2.2 The Primary Bidder shall render the Utility Regulator such assistance as the Utility Regulator may reasonably request in connection with any publicity which the Utility Regulator may deem appropriate in respect of the Scheme.

- 2.3 This Agreement and the terms and conditions contained herein shall be treated by the Primary Bidder as confidential and accordingly shall not be disclosed to any other person or entity other than to its professional advisors who are subject to obligations of confidence, for the purpose of negotiating funding for the Primary Bidder or as required by law, without the prior written consent of the Utility Regulator, such consent not to be unreasonably withheld or delayed.

DEFAULT

- 3.1 An event of default shall occur if:
- 3.1.1 in the reasonable opinion of the Utility Regulator, the Scheme has been abandoned;
 - 3.1.2 the Primary Bidder ceases to carry on its business or substantially the whole of its business otherwise than in the reasonable opinion of the Utility Regulator by way of temporary cessation of business;
 - 3.1.3 the Primary Bidder, in the reasonable opinion of the Utility Regulator, has permanently discontinued the Scheme or has spent funding for purposes other than as approved by the Utility Regulator and/or the Programme Administrator;
 - 3.1.4 any information provided by the Primary Bidder or any officer of the Primary Bidder to the Utility Regulator or Programme Administrator in support of the Primary Bidder's application for funding is misleading, incomplete or incorrect in any respect;
 - 3.1.5 the Primary Bidder fails to pay or repay to the NISEP Fund any sum due to the NISEP Fund under this Agreement or otherwise;
 - 3.1.6 the independent audit of the Primary Bidder's administration of the NISEP fails to provide adequate assurance in respect of the administration of the Scheme;
 - 3.1.7 an order is made or a resolution is passed or a petition is presented for the winding up of the Primary Bidder or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Primary Bidder;
 - 3.1.8 an order is made for the appointment of an administrator to manage the affairs, business and property of the Primary Bidder or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Primary Bidder or notice of intention to appoint an administrator is given by the Primary Bidder or its directors or by a qualifying floating charge holder (as defined in paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989);
 - 3.1.9 a receiver is appointed of any of the Primary Bidder's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager

- of the Primary Bidder or if any other person takes possession of or sells the Primary Bidder's assets;
- 3.1.10 the Primary Bidder makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;
 - 3.1.11 the Primary Bidder becomes bankrupt or where the Primary Bidder is a partnership any partner in the business becomes bankrupt and/or the Primary Bidder is unable to pay its debts within the meaning of Article 103 of the Insolvency (Northern Ireland) Order 1989 or any statutory modification or re-enactment thereof;
 - 3.1.12 the Primary Bidder enters a voluntary arrangement or composition with its creditors and/or distress or execution order is levied or Enforcement of Judgement Office proceedings are commenced against any of the property of the Primary Bidder *or any similar proceedings are commenced in any other jurisdiction; or*
 - 3.1.13 the Primary Bidder is in breach of any of its obligations under this agreement and such breach is incapable of remedy or, if capable of remedy, remains unremedied for a period of 30 days after written notice by the Utility Regulator.

STOPPING OF PAYMENTS OF FUNDING

- 4.1 Without prejudice to any other rights of the Utility Regulator under this Agreement, the Utility Regulator shall be under no obligation to Authorise payments or any further payment(s) of the funding to the Primary Bidder if:
 - 4.1.1. an event of default has occurred; or
 - 4.1.2 the Primary Bidder is in breach of any of its obligations under this Agreement (whether or not constituting an event of default); or
 - 4.1.3 in the opinion of the Utility Regulator there has been material and adverse change in the project which has not been approved in accordance with Section 4.5 of the Framework Document.
 - 4.2 In any case where:
 - 4.2.1 a breach by the Primary Bidder of its obligations under this Framework Document is capable of remedy without giving rise to concern over the future management of the Scheme and is remedied within 30 days of written notice by the Utility Regulator; and
 - 4.2.2 such breach is the sole reason for the exercise of the Utility Regulator's right to cease making payments of the funding to a Project;
- the Utility Regulator shall reinstate the making of payment of the funding.

REPAYMENT OF FUNDING

- 5.1 If an event of default occurs the Primary Bidder shall on demand by the Utility Regulator repay to the NISEP Fund the aggregate of all payments of funding made to the Primary Bidder ("the aggregate sum") in the [one] year period prior to such event, less any part of the aggregate sum which may have been repaid under any other provision of this agreement, or such lesser amount as the Utility Regulator at its discretion may determine.
- 5.2 Where any sums are repayable to the NISEP Fund under the provisions of this **Clause 5**, the Utility Regulator shall be entitled to recover from the Primary Bidder the reasonably incurred costs of the Utility Regulator in establishing the Primary Bidder's repayment liability and in recovering the sums due.

Neither failure to exercise nor any delay in exercising any right, power, privilege, or remedy under this agreement shall in any way impair or affect the exercise thereof or operate as a waiver in whole or in part.

No single or partial exercise of any right, power, privilege or remedy under this agreement shall prevent any further or other exercise thereof or the exercise of any other right, power, privilege or remedy.

DOCUMENTATION

- 6.1 The Primary Bidder shall retain all documentation relating to the Project until the Primary Bidder ceases to be under any financial or contractual obligation to the Utility Regulator (including any contingent financial obligation) under the provisions of this Agreement or for a period of six years following completion of the Project (whichever is the later), and in the event of default, acknowledges that the Utility Regulator has the right to request and receive all the relevant documentation associated with the Project.

SERVICE OF NOTICES

- 7.1 Any written notice to be served by the Utility Regulator on the Primary Bidder under the terms and conditions of this Agreement may be served by ordinary first class post, or facsimile transmission. The Primary Bidder will be deemed to have been duly served with the notice on the day it is sent if sent by facsimile transmission or on the following day if sent by first class post.

DURATION

- 8.1 This Agreement shall remain in force until the date of the last payment of financial assistance under this agreement ("**the termination date**") but without prejudice to any claim or right arising out of any breach of any obligation under this Agreement occurring before the termination date.

GOVERNING LAW

9.1 This Agreement shall be governed in all respects by the laws of Northern Ireland and the Primary Bidder hereby irrevocably submits to the exclusive jurisdiction of the Northern Ireland Courts for all purposes in connection with this Agreement.

LEGAL COMPLIANCE

10.1 The Primary Bidder shall ensure that its business is operated in compliance with all applicable laws or regulations for the time being and shall not do or omit or suffer to be done anything whereby any Act, Order or Regulation from time to time affecting its business is infringed.

FAILURE TO INITIATE THE PROJECT

11.1 If by the end of the period of twelve months from the date of this Agreement the Primary Bidder has not initiated the Project then the Utility Regulator shall cease to have any obligations under this Agreement.